

## **Towards Intergovernmental Balance Of Power in Zimbabwe. Opportunities, Challenges and Critical Success Factors**

Chakunda Vincent

(Midlands State University, Department of Local Governance Studies)

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**Abstract:** *The study of inter-government relations (IGR) presents a dynamic and complex discourse aimed at understanding political and administrative power dimensions and distribution between different tiers, spheres or levels of government. IGR reflects the horizontal and vertical power dynamics between central, state/provincial/ regional and local government and the consequences of this relationship on the degree of autonomy and discretion that sub national government tiers enjoy from central government control and direction. Anderson (1960) argued that the term IGR designate a body of activities or interactions between governmental units of all types and levels or the totality of all permutations and combinations of relations among units of government in a government system either unitary or federal. The context of IGR discourse is undergoing radical change and transformation affecting perceptions about the role and functions of different tiers of government. This discourse is occurring in the context of ongoing global change on the relative efficacy and the relevance of the nation state vis a vis growing appreciation of local government capacity given increasing challenges of globalization. National governments in the face of these dynamics and in search of policy and administrative efficiency are exiting from their traditional roles with massive shifts from centralization, overregulation and other protectionist tendencies.*

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### **The colonial system in Southern Rhodesia and intergovernmental relations**

The advent of colonialism in Southern Rhodesia (now Zimbabwe) in 1890 ravaged, dismantled and attenuated African political and government systems replacing them with colonial legislation, systems and institutions lucrative for a sustainable colonial enterprise. The desire to establish a viable colonial economy resulted in the establishment of institutions both at national, regional and local levels with clearly marked codes of racist extremism designed to give preferential treatment to whites over blacks. The Southern Rhodesia Order in Council of 1898 widely perceived to be the first Constitution of the country (Chakaipa 2010) and the 1898 regulations introduced a policy of direct rule which was implemented throughout African areas. The policy was administered by the native affairs department. In theory, the chain of command ran from the British government, through the European administration to the traditional leaders and on to the African people but in practice native commissioners had vast discretionary authority. They combined administrative, judicial and legislative functions and no aspect of African life failed to come under their purview

Three different political interactions epitomised the Rhodesia political environment. The first was between white and blacks in Rhodesia and concerned the distribution of power within the country. The second interaction was between the local white government focused on the demand for ever increasing white autonomy (Machingauta 2010). The establishment of the central African federation in the early 1950s and the enactment of the new Rhodesian Constitution in 1961 were paramount phases in the withdrawal of British control from Rhodesia. Where Britain finally refused to support white Rhodesia's demands for the Unilateral Declaration of Independence (UDI) in 1965, the government defiantly seized independence against Britain and the world.

The third interaction was intra the white community. White Rhodesia's political history was marred by considerable conflict over the best strategies and approaches to ensure sustained white political domination and through economic and social privilege. This conflict took place within a democratic political process restricted to a white oligarchy united on the fundamental of maintaining the system (Makumbe 2010). Zimbabwe got independence in 1980, through the Lancaster House Constitution and to Madhlekeni and Zhou (2012), in spite of independence from the colonial regime, Zimbabwe's new legal and institutional framework of local government did not depose the centre's excessive control on sub national governments. Central government perfected its dominance by fostering control through crafting legal and institutional frameworks to retain unlimited powers and discretion whilst maintaining the institutional framework anchoring the necessary levers to execute the powerful legal provisions. Whilst the need for checks and balances on sub national governments need not be overemphasized the dynamics of post-independence Zimbabwe are slowly turning into a "dèjà vu as

the machinations of colonial period harsh ordinances and directives appear to start haunting contemporary IGR. In 2013, a new Constitution, Amendment number 20 was passed enshrining provincial and metropolitan councils and local government as explained below

## **Tiers of government in Zimbabwe. Reflections from the Constitution Amendment Number 20 of 2013**

### **National government**

The national government of Zimbabwe is the central authority of the country and the first tier. It is made up of three arms: the executive authority, the legislature and the judiciary. This paper explores the horizontal diffusion of authority and separation of power among the three arms of government as noted above and vertical influence of the three arms on the development and operations of sub national tiers of government

### **The legislature**

Section 116 of the Constitution vests the legislative authority of Zimbabwe in the legislature which shall comprise of parliament plus the president of the nation. The structure and exercise of legislative authority and the delegation of legislative authority is provided in part 5 of the Constitution. In terms of this Constitution, the legislature of Zimbabwe consists of:

- (a) a Head of State and
- (b) a bicameral Chamber 'Parliament' comprising
  - The 80 member Senate – an upper house which is made up of elected senators, members appointed on the basis of proportional representation, and traditional chiefs chosen by the council of chiefs.
  - The 270 member National Assembly – a lower house consisting of 210 members who are elected by voters registered on the common roll for 210 common roll constituencies and 60 women chosen on proportional representation from each of the 10 provinces.

Meetings of the national assembly are chaired by the speaker of the national assembly and those of senate by the president of senate, both elected in the first meeting after general elections of the respective bodies provided members present constitute a quorum. The major role of parliament (senate and national assembly) are: protecting the constitution and promoting democratic governance in Zimbabwe, ensuring that the state and all government institutions and agencies at every level act constitutionally and in the national interest and ensuring the accountability of all institutions and agencies of the state and government at every level.

In order to perform the above functions effectively, parliament establish such a number of portfolio committees to oversee the various state, and government agencies and departments in the exercise of their mandates. These committees are designated according to government portfolios to examine the expenditure, administration and policy of government departments and other matters falling under their jurisdictions.

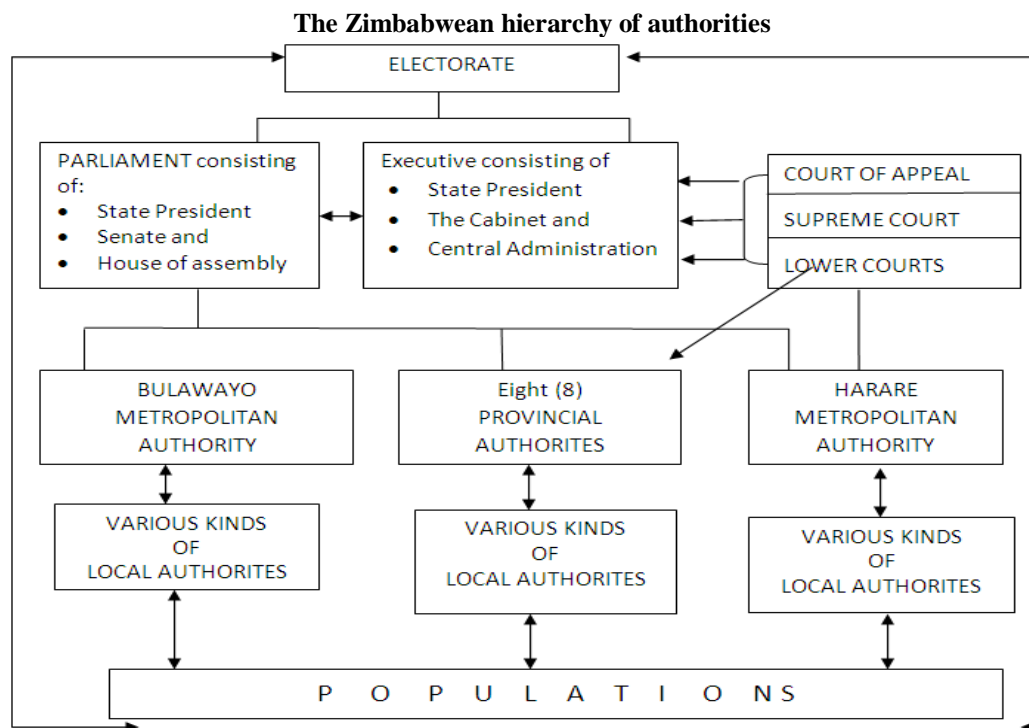
In terms of section 134 of the Constitution, parliament may, in any Act of parliament, delegate legislative power to subordinate institutions to pass subordinate or subsidiary legislation but subject to review by parliament itself. This is both inevitable and desirable, as, in the modern state, parliament intervenes and regulates a lot of different activities and therefore cannot realistically be expected to pass all rules and regulations necessary to run the state. Thus, parliament passes legislation that simply establishes broad policies and then delegates to subordinate authorities the power to pass subsidiary legislation in order to bring into effect in detailed form those broad policies. The delegates are, for instance urban councils, who, acting in terms of the above section of the Constitution and section 228 of the Urban Councils Act [Chapter 29.15] may pass by-laws to regulate local development. However, although it is undisputable that delegated legislation is inevitable, concern is centred on the possibilities of abuse of delegated legislative powers and hence parliament should institutionalise sufficient systems to safeguard delegated legislative authority against abuse to the detriment of citizens.

### **The executive authority**

The composition and exercise of executive authority is provided in chapters, 2, 3 and 4, sections 88 to 113 of the Constitution. The Constitution vests executive authority in the president, who subject to the Constitution shall exercise such executive authority through the cabinet directly appointed by him or her. Section 104 (1) provides that the president appoints ministers and assigns functions to them such as the administration of any Act of parliament, ministry, or department. The cabinet consist of the president, as the head (chair), vice presidents and such number of ministers appointed by the president. The president preside over cabinet meetings and in his absence the vice president takes over and in the absence of both, ministers present shall elect one from amongst their numbers to be chairperson to preside over the meeting.

### The Judiciary and the Courts

Chapter 8, sections 162 to 191 of the Constitution vests judiciary authority in the Supreme Court, the High Court, and subsidiary courts. The President appoints the Chief Justice, who is the head of the judiciary and Supreme and High court judges after consultation with the Judicial Service Commission. Section 164 emphasises the independence and impartiality of the courts as the cornerstone of any credible justice delivery system. The independence and impartiality of the judiciary is deemed central to the rule of law and democratic governance by the Constitution and therefore neither, the state nor any institution or agency of the government at any level may interfere with the functions of the courts.



Source; Marume (2013)

### Provincial governments

The second tier of government consists of provincial and metropolitan government and administration system. This paper explores the development and existence of provinces, on the one hand, and, on the other hand, the operation of the provincial authorities through a cross-examination of their historiography. These provincial authorities are the second level of authority in terms of the Constitution.

The provinces and provincial authorities, developed in Zimbabwe over the years, for example, by 1890, Zimbabwe (then Southern Rhodesia) was made up of two roughly equal provinces; namely, Matabeleland and Mashonaland. Between 1972 and 1985 Zimbabwe had been divided into eight provinces as follows: Mashonaland East; Mashonaland West; Mashonaland Central; Masvingo; Midlands; Matabeleland North; Matabeleland South and Manicaland (Marume 2013). It should be pointed out that in each of the 8 former provinces there had been a provincial authority with jurisdiction over African tribal trust and purchase lands and only over African local councils between 1972 and 1985. They did not have jurisdiction over the European areas and urban local authorities. In 1985, government passed the Provincial Councils and Administration Act, Chapter 29.11 establishing Provincial Councils chaired by the Provincial Governor and Resident Minister appointed by the president. Other members were: all mayors and chairpersons of councils in the province, one councillor for each local authority (council) in the province, one traditional chief representing the interests of the provincial assembly of chiefs and three other persons appointed by the president of the republic, each to represent the following interests: politics, youth, women.

But this has changed in terms of the Constitution of Zimbabwe (Amendment No. 20), 2013 which provides for eight provincial and two metropolitan councils [Bulawayo and Harare].

The development and operation of the provincial government and administration system in Zimbabwe has always been a centre of controversy and debate. This is precisely because, Zimbabwe became bedevilled between 1985 and 2012 by an acrimonious political debate regarding the need for a new and home grown

constitution and the related factors of decentralisation and devolution of power from the strong centralist government. Some people were thinking of breaking up the country into a federation. Others were contemplating secessionism (Kurebwa 2009). Still others were thinking of more of a unitary state with a representative three-tier governmental structure (Marume 2013). Thus, some few decades after attaining independence, people were raising serious questions about the kind of the political system which Zimbabwe needed to adopt. Fundamentally, people wanted a more democratic state and a representative and responsible government. And yet, most surprisingly, nobody seemed to have given clear and reasonable explanations of the political implications of such ideologies. It has been established that, over and above this, there was an apparent lack of proper understanding of the powers and responsibilities; the correct historical, political and constitutional developments; structural composition, and executive functioning of such provincial authorities in Zimbabwe. It has been further established that a comprehensive and scientific study of IGR addressing as well the administration of the provincial authorities in Zimbabwe in the context of the Constitution of Zimbabwe (Amendment No. 20) has not yet been undertaken. This study could thus, be regarded as a practically useful and pioneer investigation into this particular area.

In terms of the Constitution of Zimbabwe (Amendment No. 20) section two hundred and sixty seven (267), provinces of Zimbabwe are identified as: Bulawayo Metropolitan Province, Harare Metropolitan Province, Manicaland Mashonaland Central, Mashonaland East, Mashonaland West, Masvingo, Matabeleland North, Matabeleland South and Midlands; whose boundaries are fixed under an Act of Parliament [section 267 (1)]. An Act of Parliament (a) must provide for the division of provinces into districts and (b) may provide for the alteration of provincial and district boundaries; after consultation with the Zimbabwe Electoral Commission and the people in the provinces and districts concerned [section 267 (2)].

### **Local government**

This section outlines and cross-examines the constitutional, legislative and institutional environment and framework of local government in Zimbabwe. The endeavour is to determine the co-existence of local government and other tiers of government as shaped by the governing legislation and enforced through the established institutions.

The history of organised and legislated local government in Zimbabwe dates back to 1890s with the arrival of the British South African Company (BSAC) and the subsequent establishment of the Salisbury Sanitary Board as the first formal local authority (Jordan, 1984). Municipal Ordinances, Advisory Boards in African townships and African Councils under the direct rule of the District Commissioner's Office were later established. According to Madhlekeni and Zhou (2012), these structures modelled along racial lines laid the foundation of a highly centralized local government system based on white supremacist policies and characterized by the imposition of substandard and centrally defined programmes on African and Native Councils and denial of African self-government.

This manifestation of central government dominance in local authorities through entrenched draconian and racial legal and institutional frameworks was later on met with strong resistance and contradiction by the black populace through the liberation struggle (Makumbe 2001). The demise of the colonial regime ushered in a new twist in the local government arena with the installation of new institutions, structures, expanded decentralization of local government structures and ZANU PF's liberation interventions sowing the seeds for political party intervention and control over local authorities (Madhlekeni and Zhou 2012).

The advent of independence in 1980 saw the creation of a single local government Ministry and the amalgamation of African Councils into District Councils and the establishment of new legislation (Rural District Councils Act and the Urban Councils Act) in 1988. In spite of Zimbabwe's independence from the colonial regime, the new legal and institutional framework of local government did not depose nor loosen the central government's stranglehold on local authorities (Madhekeni and Zhou (2012). The post-independence era has been characterized by what Olowu (2001) refers to as expanded centralization through decentralization where central government purports to promote the principles of decentralization by transferring tasks and responsibilities to local authorities whilst retaining decision making power and authority. Machingauta (2010) seems to concur with the above argument and added that functionally, the central government is supposed to provide an enabling or facilitative framework within which local government operates. In practice, however, the Ministry of Local Government, Public Works and National Housing (MLGPWNH) has increasingly played a controlling and directive role especially since the emergence of a formidable opposition Movement for Democratic Change (MDC) with a significant control over local government authorities in the urban areas.

The Minister administers all the Acts and Statutory Instruments promulgated in the local government area. The Minister retains a substantial supervisory role over all local government units and enjoys the ultimate power of intervention and suspension of any local council. Thus to Machingauta (2010), local government in Zimbabwe operate at the behest and suffering of the centre as the main legal instruments of local government invest the President and the Minister of Local Government with the power to suspend or act in place of a local

authority and the power to nullify some decisions of local authorities. For instance, in the RDC Act alone, there are more than 250 instances where the Minister can intervene in the day to day running of Rural District Councils. As Minister of Local Government, Public Works and National Housing, Ignatius Chombo has explained in the past: "local councils enjoyed delegated authority and thus should follow government, and by extension, ZANU PF policies." (The Daily Mirror, 30.08.04.)

From 1980 to 2013, the local government system in Zimbabwe was a legislative rather than a constitutional creature, a tradition of most former British colonies. Machingauta (2010) stressed that, although they were body corporates, local authorities remained creatures of statutes with no constitutional recognition of their existence. In essence this implies that local government in Zimbabwe was a decentralised level of government which derived its authority from Acts of Parliament and not from the Constitution. The Constitution [Amendment No. 20] 2013 ushered in a new dispensation enshrining local government in Part two (2), sections two hundred and seven four (274) to two hundred and seventy nine (279). According to the above sections, there shall be urban local authorities and rural local authorities whose powers shall be subject to the Constitution and the Urban Councils Act [Chapter 29.15] and Rural District Councils Act [Chapter 29.13] The Constitution in chapter one, section one 1(1) states that the constitution is the supreme law of Zimbabwe and if any other law is inconsistent with this constitution that other law shall, to the extent of the inconsistency, be void.

### **Challenges of intergovernmental relations and cooperative government in Zimbabwe**

While the Constitution of Zimbabwe [Amendment No. 20] of 2013 clearly establishes a three tier government system with distinct constitutional mandates, there is paradoxically lack of a clear regulatory framework for the management of IGR in Zimbabwe. So far, it appears the legal basis and framework for managing IGR in Zimbabwe is not transparent, inconsistent, lacks clarity and is subject to political manipulation. In the absence of a clear framework regulating IGR, the relationship is mired in confusion; ambivalences and vagueness leaving the centre with predatory authority that have often been hijacked to advance parochial political and personal interests and thereby negatively affecting not only the discretion of sub national tiers of government but their administrative efficiency as well. In a nutshell, the constitutional and legislative guarantees for IGR in Zimbabwe are weak, leaving sub national policy making susceptible to shifts in allocation of power as it gives central government too much discretionary power over sub national governments policy making domain.

In the same context differences in political ideologies and the perceived subjectivity to particular political party philosophies in Zimbabwe have led to a subjective and speculative perception over the objectivity of central government intervention in provincial and local government affairs on the one hand and the capability of these sub national governments to manage their affairs effectively with minimal central government supervision on the other hand. These legislative, structural and political concerns have culminated in tensions between sub national governments and central government with central government intervention approaches in local government (though legally entrenched) hampering the intended benefits of decentralization.

Over the past decades, governments have confronted problems transcending their boundaries. In the same context, governments increasingly interact across different spheres of authority affecting a multitude of policy fields. Paradoxically, the puzzle of institutional choice in which intergovernmental cooperation takes place inside individual countries, especially in unitary states remains surprisingly under-explored. Much of the recent literature on the nature of policy making and policy change has focused on the relationships between different institutions and actors in various policy communities. The key issues arising from this literature concern the fragmentation and conflict within and between different levels of government. In this regard, the interdependencies between different institutions and actors including policy making and implementation agencies, specialized bureaucracies and different levels of government becomes fundamental.

Wright (2000) emphasizes bargaining and dynamic exchanges between actors within structured political contexts. In the Zimbabwean context, this emphasis on bargaining has recently been seen in the debate about the synergies in policy networks in which agents interact with and change, yet are constrained by their structural context. This paper places that in the context of different parties in power at different levels of government, in Zimbabwe, there is likely to be pressure on the constitutional, institutional and financial arrangements for devolution to sub national tiers. Furthermore, the division of power means that there is much overlap between the centre activity and the powers of the devolved administrations. The central question underpinning this study then is how the relationship between both levels of government work and what is the net implication on the autonomy of sub national tiers. While fundamental debate has been invested on institutional development and devolution in Zimbabwe, it seems there was very little discussion of how relationships between the different tiers of government would work in practice and little acknowledgment of the degree of co-dependence that would exist after decentralization.

In the context of the available body of literature and knowledge, IGR in federal systems of government is a relatively explored topic especially the federal systems of United States of America (US) (Anderson 1960,

Elazar 1987, Wright 1981, 1987, 2005), Canada (Wright 2005, Heritier 2007), and Nigeria (Wright 1995, Asongwa 2009). Much of these studies were and are a product of the perceived challenges of integration and coordination in federal systems due to socio-political, cultural and other geo-physical factors influencing federalism (Ile 2007). Additionally theorists and academics have also focused on the diffusion of power and functional responsibility among the three tiers (federal, state and local government) usually characteristic of federal regimes. Federal governments have also established and funded commissions and researches on IGR in their quest to find models on how best they can harness federal diversity to promote policy and administrative efficiency while maintaining political, social and economic stability. The US government, for example established, among others, the commission on IGR in 1955 (Agranoff 2012). The commission made critical recommendations on the need for a clear relational framework, underpinned by legislation, between the federal government, states and local government.

The general pattern of research on IGR as illustrated, provide a prima facie misconception that IGR complexities are only typical of federal systems of government. Yet, IGR by its very nature exists where ever there is more than one level of government (Agranoff 2012). This has resulted in very limited research being invested towards understanding complexities of IGR in other systems of government, particularly in unitary systems. Storing (1981) attempted to demystify the misplaced oversimplification of identifying IGR complications with federal regimes arguing that, IGR is not confined to relations between federal governments and states but between different levels of government both horizontally and vertically in any government system.

Whilst there is theoretical agreement on the centrality of IGR and cooperative government in unitary systems, particularly Zimbabwe, there is lack of comprehensive policy commitment to developing regulatory frameworks, safeguards, agreements and other mechanisms both structural and non structural for a more effective diffusion of authority to enhance not only autonomy of different levels of government but also limit jurisdictional overlapping and promote administrative efficiency (Chatiza 2010, Mukonza 2012). This is despite notable problems such as how central government, local government and strategic actors and institutional arrangements interact. Thus local government in fulfilling its communities' desire for voice and autonomy has found itself in confrontation with central government. The latter is often ambivalent as to whether the former present an opportunity or threat

## I. Conclusion

This research of IGR in Zimbabwe after the promulgation serves as a pioneer study on IGR in after the promulgation of the Constitution [Amendment No. 20] of 2013 which enshrined provincial councils, metropolitan councils and local government which were not provided in the previous Constitution. The new Constitution also ushered in the new structures of provincial and metropolitan councils and hence cross examining these new constitutional developments in the context IGR and public administration is a critical area for scientific and academic exploration.

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